

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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BILL DRAFT 2007-SVz-22 [v.6] (04/23)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Procedure for Tax Class Actions.

(Public)

Sponsors: Senator.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A PROCEDURE FOR TAXPAYERS TO JOIN A CLASS
ACTION SEEKING A REFUND OF AN UNCONSTITUTIONAL TAX.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 105 is amended by adding a new section
to read:

"§ 105-241.18. Class actions.

(a) Requirements. – To be included as a member in a class action seeking the
refund of an unconstitutional tax, a taxpayer must file a claim for refund in accordance
with G.S. 105-241.17. The claim must also state that the sole basis for the refund claim
is the unconstitutionality of a statute and not the application of a statute and specify the
pending class action of which the taxpayer seeks to become a member. This subsection
does not apply to the class representative who must comply with G.S. 105-241.17 to
commence a class action challenging a statute as unconstitutional.

(b) Notice. – The Department must send to the court in which the class action is
pending a copy of any claim for refund filed in accordance with this section.

(c) Exemption. – The procedures for administrative and judicial review of a
proposed denial of refund in G.S. 105-241.11 through G.S. 105-241.17 do not apply to a
claim for refund made in accordance with this section.

(d) Separate Claim. – If a taxpayer's claim for refund includes a basis other than
the basis set out in subsection (a) of this section, the taxpayer must file a separate claim
for refund in accordance with G.S. 105-241.17.

(e) Statute of Limitations. – The statute of limitations for filing a claim for refund
is tolled for any taxpayer who, at the time the class action was commenced, could
timely file a claim for refund with the Secretary. The statute of limitations resumes
running against the taxpayer upon any of the following:

(1) The entry of an order eliminating the taxpayer from the class.

- 1 (2) The entry of an order denying certification of the class.
2 (3) The dismissal of the action without an adjudication on the merits.
3 (4) The entry of a final judgment."

4 **SECTION 2.** G.S. 105-241.19 reads as rewritten:

5 **"§ 105-241.19. Declaratory judgments, injunctions, and other actions prohibited.**

6 The remedies in G.S. 105-241.11 through G.S. 105-241.18 set out the exclusive
7 remedies for disputing the denial of a requested refund, a taxpayer's liability for a tax, or
8 the constitutionality of a tax statute. Any other action is barred. Neither an action for
9 declaratory judgment, an action for an injunction to prevent the collection of a tax, nor
10 any other action is allowed."

11 **SECTION 3.** This act is effective when it becomes law and applies to
12 actions filed on or after that date.